

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

-----X
JOSEPH R. CULVER and KIMBERLY PROCTOR,
H/W,

Plaintiffs,

CIVIL ACTION No.: 20-cv

vs.

NOTICE OF REMOVAL

DRAME SAIDOU, ABI BROTHERS, LLC and
JOHN DOES 1-10 (representing presently unknown
individuals, businesses, partnerships, and/or
corporations who owned, operated, maintained,
supervised and/or controlled the vehicle in question or
otherwise employed the defendants),

Defendants.

-----X

TO: Richard Del Vacchio, Esq.
Del Vacchio O'Hara, P.C.
Feed Mill Station
2nd Floor, Suite E
39 Route 12
Flemington, NJ 08822

PLEASE TAKE NOTICE, that on this date, defendants DRAME SAIDOU and ABI BROTHERS, LLC by their undersigned counsel, have filed this Notice of Removal pursuant to 28 U.S.C. §1446(a), in the office of the Clerk of the United States District Court for the District of New Jersey.

1. Plaintiffs JOSEPH R. CULVER and KIMBERLY PROCTOR instituted a lawsuit against defendants DRAME SAIDOU and ABI BROTHERS, LLC (and fictitious named defendants) by filing a Complaint and Jury Demand in the Superior Court of the State of New Jersey, Law Division, Essex County on or about October 6, 2020 as a result of an alleged accident which occurred on or about November 20, 2018. A copy of the Complaint is annexed hereto as Ex A.

2. Upon information and belief, the Summons and Complaint were not received by DRAME SAIDOU to date.

3. The Summons and Complaint were received by ABI BROTHERS, LLC on or about October 14, 2020.

4. There have been no other proceedings in this action.

5. According to the plaintiffs' complaint (Ex. A), the plaintiffs purport to be citizens and

residents of the State of Connecticut, residing in the Norwich, and County of New London.

6. Defendant ABI BROTHERS, LLC is a corporation incorporated in the State of Minnesota and maintains its principal place of business in the State of Minnesota.

7. Defendant DRAME SAIDOU is a resident of the State of North Dakota, residing in the City of Fargo.

8. In the First Count, 4th paragraph and Second Count, 8th paragraph of the plaintiff's Complaint, it is alleged that as a result of the accident which forms the basis of the Complaint, plaintiff JOSEPH R. CULVER was caused to sustain injuries; was caused to suffer great pain and anguish and will in the future be caused to suffer pain and anguish; was caused to lose time from his employment and will in the future be caused to lose time from his employment; was caused to incur medical expenses; and was caused to suffer severe, serious and permanent injuries. Ex. A.

9. On October 16, 2020, the defendants served a request for a written Statement of Damages claimed on the plaintiff's counsel. Ex. B.

10. On October 30, 2020, the plaintiffs responded to the demand for Statement of Damages indicating damages in the amount of \$750,000. Ex. C.

11. Based upon the language set forth in the plaintiffs' Complaint and the plaintiffs' response to the defendants' request for a written Statement of Damages, the matter in controversy exceeds \$75,000, exclusive of interest and costs. *Please see* Ex. A.

12. Jurisdiction over the subject matter of this action is conferred on this Court by 28 U.S.C. §1441(a).

13. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §1332 and 28 U.S.C. §1441 in that the parties are of complete diversity of citizenship, the amount in controversy exceeds \$75,000 exclusive of interest and costs.

14. This Notice is filed with this Court within 30 days of defendants' receipt "through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based," as provided by 28 USC §1446(b).

PLEASE TAKE FURTHER NOTICE, that the defendants, upon filing the Notice of Removal in the office of the Clerk of the United States District Court for the District of New Jersey,

have also filed copies of the Notice with the Clerk of the Superior Court of New Jersey, Law Division, Essex County Courthouse, 50 W Market St, Newark, NJ 07102, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. §1446(b).

Dated: November 13, 2020

LAW OFFICES OF LORNE M. REITER, LLC
Attorneys for defendants
DRAME SAIDOU and ABI BROTHERS, LLC
124 First Avenue
Atlantic Highlands, New Jersey 07716

Lorne M. Reiter

BY:

LORNE M. REITER

EX. A

DEL VACCHIO O'HARA, P.C.
 Richard Del Vacchio, Esq.
 Bar I.D.#: 030511993
 Feed Mill Station
 2nd Floor, Suite E
 39 Route 12
 Flemington, NJ 08822
 (908) 782-4422
Attorneys for Plaintiffs

JOSEPH R. CULVER and	:	SUPERIOR COURT OF NEW JERSEY
KIMBERLY PROCTOR, H/W	:	
	:	LAW DIVISION - ESSEX COUNTY
<i>Plaintiffs</i>	:	DOCKET NO.
	:	
vs.	:	Civil Action
	:	
DRAME SAIDOU,	:	
ABI BROTHERS LLC	:	
and JOHN DOES 1-10	:	COMPLAINT, JURY DEMAND,
(representing presently	:	DESIGNATION OF TRIAL COUNSEL,
unknown individuals,	:	CERTIFICATION, DEMAND FOR
businesses, partnerships,	:	DISCOVERY OF INSURANCE
and/or corporations who	:	COVERAGE, DEMAND FOR
owned, operated, maintained,	:	ANSWERS TO INTERROGATORIES
supervised and/or controlled	:	AND REQUEST FOR PRODUCTION
the vehicle in question or	:	OF DOCUMENTS
otherwise employed the	:	
defendants),	:	
	:	
<i>Defendants</i>	:	

Plaintiffs, Joseph R. Culver and Kimberly Proctor, h/w,
 residing at 33 4th Street, Norwich, State of Connecticut, by way of
 Complaint against the defendants says:

FIRST COUNT

1. On or about November 20, 2018, the plaintiff, Joseph R. Culver was the operator of a commercial vehicle which was traveling at or near 20 Theodore West, Jersey City New Jersey in the course of his employment

2. At the time and place aforesaid, defendant, Saidou Drame was the operator of a commercial vehicle as agent, owner, employee and/or servant, of the vehicle owned by defendant ABI Brothers LLC was so negligently driven as to cause same to strike plaintiff's vehicle, causing the plaintiff injury.

3. At the same time and place aforesaid, defendant ABI Brothers LLC is the employer of defendant operator, Saidou Drame.

4. As a direct and proximate result of the negligence of the defendants in the manner in which they owned, operated, maintained, controlled and supervised their motor vehicle, a collision occurred and the plaintiff was caused to sustain injuries; was caused to suffer great pain and anguish and will in the future be caused to suffer pain and anguish; was caused to lose time from his employment and will in the future be caused to lose time from his employment; was caused to incur medical expenses; was caused to suffer severe, serious and permanent injuries.

WHEREFORE, plaintiff, Joseph R. Culver hereby demands judgment against the defendants, Saidou Drame and ABI Brothers LLC for damages, interest, costs of suit and attorney fees.

SECOND COUNT

5. Plaintiff hereby repeats and incorporates each and every allegation of the prior Count as if same were fully set forth herein at length.

6. At the time and place aforesaid, the defendants, John Does 1-10, (representing presently unidentified individuals,

businesses and/or corporations who owned, operated, maintained, supervised and/or controlled the vehicles in question or otherwise employed the defendant), were traveling at or near 20 Theodore Drive West, Jersey City, New Jersey.

7. At the time and place aforesaid, the defendants, John Does 1-10, negligently and/or carelessly operated their commercial vehicle and as a direct result of their negligence, caused it to strike the plaintiff's vehicle causing severe personal injuries.

8. As a direct and proximate result of the negligence of the defendants in the manner in which they owned, operated, maintained, controlled and supervised their commercial vehicle, a collision occurred and the plaintiff was caused to sustain injuries; was caused to suffer great pain and anguish and will in the future be caused to suffer pain and anguish; was caused to lose time from his employment and will in the future be caused to lose time from his employment; was caused to incur medical expenses; was caused to suffer severe, serious and permanent injuries.

WHEREFORE, plaintiff, Joseph R. Culver, hereby demands judgment against the defendants, John Does 1-10, for damages, interest, costs of suit and attorney fees.

THIRD COUNT

9. Plaintiff hereby repeats and incorporates each and every allegation of the prior Counts as if same were fully set forth herein at length.

9. The plaintiff alleges there was a breach of Motor Vehicle Statutes and other regulations and that constitutes a Statutory Tort.

WHEREFORE, plaintiff, Joseph R. Culver, hereby demands judgment against the defendants, Saidou Drame, ABI Brothers LLC and John Does 1-10, for damages, interest, costs of suit and attorney fees.

FOURTH COUNT

10. Plaintiff, Kimberly Proctor, h/w, hereby repeats and incorporates each and every allegation of the prior Counts as though same were fully set forth herein at length.

11. At the time of the accident and down to the present, plaintiff, Kimberly Proctor was the spouse of plaintiff, Joseph R. Culver, and as such was entitled to his love, services and consortium all of which she has been deprived of due to the negligence of the defendants.

WHEREFORE, plaintiff, Kimberly Proctor, demands judgment against the defendants, Saidou Drame, ABI Brothers LLC and John Does 1-10, for damages, interest, costs of suit and attorney fees.

JURY DEMAND

Plaintiffs, pursuant R. 4:35-1, demand a trial by jury of not less than six (6) as to all issues.

DESIGNATION OF TRIAL COUNSEL

Plaintiffs hereby designates Richard Del Vacchio, Esq. as Trial counsel in the above matter for the firm of Del Vacchio O'Hara, P.C., pursuant to R. 4:25-4.

CERTIFICATION PURSUANT R. 4:5-1

I hereby certify that this matter is not the subject matter of any other suit, pending or contemplated, in any other court or arbitration proceedings.

DEMAND FOR DISCOVERY OF INSURANCE COVERAGE

Pursuant to R. 4:10-2(b), demand is hereby made that defendants disclose to plaintiffs' attorneys whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part of all of a judgment and provide plaintiff's attorneys with true copies of such insurance agreements or policies including, but not limited to, any and all declaration sheets. This demand shall be deemed to include and cover not only primary coverage but also any and all excess, catastrophe and umbrella policies.

DEMAND FOR ANSWERS TO INTERROGATORIES

In accordance with R. 4:17-1(b)(ii), demand is hereby made for defendants to answer Form C and C(1) Uniform Interrogatories and the attached supplemental interrogatories within sixty (60) days.

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to R. 4:18-1, the plaintiffs hereby demand that the defendants produce the following documentation within thirty (30) days as prescribed by the Rules of Court. Additionally, please be advised that the following requests are ongoing and continuing in nature and the defendants are therefore required to continuously

update their responses thereto as new information or documentation comes into existence.

1. The amounts of any and all insurance coverage covering the defendant, including but not limited to, primary insurance policies, secondary insurance policies and/or umbrella insurance policies. For each such policy of insurance, supply a copy of the declaration page therefrom.

2. Answers to Form C and C(1) Uniform Interrogatories and the attached supplemental interrogatories within sixty (60) days.

3. Copies of any and all documentation or reports, including but not limited to, police reports, accident reports and/or incident reports concerning the happening of the incident in question or any subsequent investigation of same.

4. Copies or duplicates of any and all photographs, motion pictures, videotapes, films, drawings, diagrams, sketches or other reproductions, descriptions or accounts concerning the individuals involved in the incident in question, the property damage sustained, the accident scene, or anything else relevant to the incident in question.

5. Copies of any and all signed or unsigned statements, documents, communications, and/or transmissions, whether in writing, made orally or otherwise recorded by any mechanical or electronic means, made by any party to this action, any witness, or any other individual, businesses, corporation, investigative

authority or other entity concerning anything relevant to the incident in question.

6. Copies of any and all documentation, including but not limited to, any contracts between the owner of the property or product involved in the incident in question and any of the parties involved in this matter.

7. Copies of any and all contracts between any of the parties involved in the incident in question.

8. Copies of any and all documentation concerning any lease agreements between the lessor(s) and the lessee(s) concerning the property and/or incident in question.

9. Copies of any and all documentation, including but not limited to, safety manuals, statutes, rules, regulations, books, and/or industry standards which refer to, reflect or otherwise relate to the incident in question or any potential defense to the action in question.

10. Copies of any and all permits applied for by the parties to the action in question concerning either the product in question, the accident scene, or anything else relevant to the happening of the accident in question.

11. Copies of any and all permits received by the parties to the action in question concerning either the product in question, the accident scene, or anything else relevant to the happening of the accident in question.

12. Copies of any and all discovery received from any other parties to the action in question.

13. Copies of any and all reports on the plaintiff received by the defendants, or any other party to this suit, from either the Central Index Bureau (C.I.B.) or from any other source.

14. Copies of any and all reports and/or other investigations performed by O.S.H.A. or any other investigative authority.

15. Copies of any and all medical information and/or documentation concerning the plaintiff in this matter whether it concerns any medical condition or treatment which took place before, during or after the time of the incident in question.

16. Copies of any and all records of any type subpoenaed by the defendant or received from any other source concerning the plaintiff or the incident in question.

17. A list of employees present at the job site or accident site, their names, addresses and job titles.

DEL VACCHIO O'HARA, P.C.
Attorneys for Plaintiff

By:


RICHARD DEL VACCHIO, ESQ.

Dated: 10/6/20

EX. B

LAW OFFICES OF LORNE M. REITER, LLC

124 FIRST AVENUE
ATLANTIC HIGHLANDS, NEW JERSEY 07716

TEL. (732) 747-9555
FAX (732) 626-6800

LORNE M. REITER *

LAURA C. JOHNSON +
VANESSA L. KOPPEL ^
SHARON B. MORELAND #

* ADMITTED NEW YORK & NEW JERSEY
+ ADMITTED NEW JERSEY & COLORADO
^ ADMITTED NEW JERSEY
ADMITTED NEW YORK, NEW JERSEY &
MASSACHUSETTS

NEW YORK OFFICE

14 WALL STREET, 20TH FLOOR
NEW YORK, NY 10005
(212) 222-0955
(212) 202-4784 FAX

lreiter@lreiterlaw.com

October 16, 2020

carol@domlawfirm.com

Richard Del Vacchio, Esq.
Del Vacchio O'Harra, P.C.
Feed Mill Station
2nd Floor, Suite E
39 Route 12
Flemington, NJ 08822

Re: Joseph R. Culver and Kimberly Proctor v. Drame Saidou and Abi Brothers, LLC
Our File Number: 001-0769-JCJ
Date of Loss: November 20, 2018

Dear Mr. Del Vacchio:

Our firm represents defendants Drame Saidou and Abi Brothers, LLC with respect to the above-captioned matter.

We hereby demand that plaintiff serve upon us, within five (5) days from the date of service hereof, a written Statement of Damages claimed, pursuant to Rule 4:5-2.

Very truly yours,

s/ Lorne M. Reiter

LORNE M. REITER

LMR:lms

EX. C

Del Vacchio O'Hara, P.C.

ATTORNEYS AT LAW

Feed Mill Station
39 Rt. 12, Floor 2, Suite E
Hemington, NJ 08822
(tel): (908) 782-4422 Fax: (908) 782-4423

Richard Del Vacchio
Certified by the Supreme Court
of New Jersey as a Civil Trial Attorney

Patrick C. O'Hara, Jr.
Admitted in NJ and PA

October 30, 2020

via **FACSIMILE: 732-626-6800**

Lorne M. Reiter, Esquire
Law Offices of Lorne M. Reiter, LLC
124 First Avenue
Atlantic Highlands, NJ 07716

Re: Culver, et al. v. Saidou, et al.
Docket No.: ESX-L-006653-20

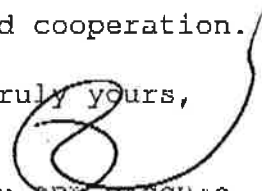
Dear Mr. Reiter:

Enclosed please find Plaintiffs' Statement for Damages in response to your request for same, which was received by my office on October 28, 2020.

I look forward to hearing from you on this matter.

Thank you for your attention and cooperation.

Very truly yours,


RICHARD DEL VACCHIO

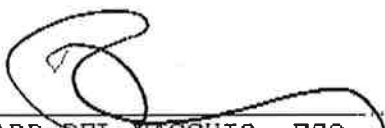
RDV:cms
Enclosure

DEL VACCHIO O'HARA, P.C.
Richard Del Vacchio, Esq.
Bar I.D.#: 030511993
Feed Mill Station
2nd Floor, Suite E
39 Route 12
Hemington, NJ 08822
(908) 782-4422
Attorneys for Plaintiffs

JOSEPH R. CULVER and	:	SUPERIOR COURT OF NEW JERSEY
KIMBERLY PROCTOR, H/W	:	
	:	LAW DIVISION - ESSEX COUNTY
<i>Plaintiffs</i>	:	DOCKET NO.
	:	
vs.	:	Civil Action
	:	
DRAME SAIDOU,	:	
ABI BROTHERS LLC	:	
and JOHN DOES 1-10	:	PLAINTIFFS' RESPONSE TO
(representing presently	:	DEMANDS FOR STATEMENT OF
unknown individuals,	:	DAMAGES
businesses, partnerships,	:	
and/or corporations who	:	
owned, operated, maintained,	:	
supervised and/or controlled	:	
the vehicle in question or	:	
otherwise employed the	:	
defendants),	:	
	:	
<i>Defendants</i>	:	

Plaintiffs hereby respond to defendants' Demands for Statement
of Damages as follows:

Plaintiffs' demand for damages is \$750,000.00.



RICHARD DEL VACCHIO, ESQ.

DATE: 10-30-2020

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

-----X
JOSEPH R. CULVER and KIMBERLY PROCTOR,
H/W,

Plaintiffs,

CIVIL ACTION No.: 20-cv

vs.

CERTIFICATION OF SERVICE

DRAME SAIDOU, ABI BROTHERS, LLC and
JOHN DOES 1-10 (representing presently unknown
individuals, businesses, partnerships, and/or
corporations who owned, operated, maintained,
supervised and/or controlled the vehicle in question or
otherwise employed the defendants),

Defendants.

-----X

LORNE M. REITER, ESQ. certifies as follows:

1. I am an attorney duly admitted to practice before this Honorable Court, and I hereby affirm the truth of the following statements under the penalty of perjury.

2. I am a member with the law firm of LAW OFFICES OF LORNE M. REITER, LLC, attorneys for the defendants DRAME SAIDOU and ABI BROTHERS, LLC and, as such, I am fully familiar with the facts set forth herein.

3. On this date, I served a copy of the within Notice of Removal upon the plaintiffs in this action by mailing same via First Class Mail from 124 First Avenue, Atlantic Highlands, New Jersey 07716 addressed to the plaintiffs' attorney, Richard Del Vacchio, Esq., Del Vacchio O'Hara, P.C., Feed Mill Station, 2nd Floor, Suite E, 39 Route 12, Flemington, NJ 08822 and via e-mail through e-filing on the New Jersey State Court website.

4. Further, on this date, I caused a copy of the Notice of Removal to be filed with the Clerk of the Superior Court of New Jersey, Law Division, Essex County, 50 W Market St, Newark, NJ 07102.

5. Pursuant to 28 U.S.C. §1746, I affirm under penalty of perjury that the foregoing is true and correct.

Dated: November 13, 2020

LAW OFFICES OF LORNE M. REITER, LLC
Attorneys for defendants
DRAME SAIDOU and ABI BROTHERS, LLC

124 First Avenue
Atlantic Highlands, New Jersey 07716
Lorne M. Reiter

BY: 

LORNE M. REITER